

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| ----- | X | |
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| UNITED STATES OF AMERICA | : | |
| | : | CONSENT PRELIMINARY ORDER |
| - v. - | : | OF FORFEITURE/ |
| | : | <u>MONEY JUDGMENT</u> |
| FRANKLYN ESPINOSA ALMONTE, | : | |
| | : | 21 Cr. 496 (LJL) |
| Defendant. | : | |
| ----- | X | |

WHEREAS, on or about August 4, 2021, FRANKLYN ESPINOSA ALMONTE (the “Defendant”), among others, was charged in a one-count Indictment, 21 Cr.496 (LJL) (the “Indictment”), with narcotics conspiracy, in violation of Title 21, United States Code, Section 846 (Count One);

WHEREAS, the Indictment included a forfeiture allegation as to Count One of the Indictment, seeking forfeiture to the United States, pursuant to Title 21, United States Code, Section 853, of any and all property constituting, or derived from, any proceeds obtained, directly or indirectly as a result of the offense charged in Count One of the Indictment, and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offense charged in Count One of the Indictment, including but not limited to a sum of money in United States currency representing the mount of proceeds traceable to the commission of the offense charged in Count One of the Indictment;

WHEREAS, on or about August 4, 2021, pursuant to a judicially authorized search and seizure warrant, the Government seized from the Defendant at the time of arrest, the following property:

- i. \$51,980 in United States currency, seized from the Defendant’s residence in Bronx, New York; and

ii. \$10,000 in United States currency, seized from the Defendant's vehicle;
(i and ii, collectively, the "Seized Property");

WHEREAS, on or about March 16, 2022, a Declaration of Administrative Forfeiture was entered, forfeiting the Seized Property to the United States;

WHEREAS, on or about June 27, 2023, the Defendant pled guilty to Count One of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Indictment and agreed to forfeit, to the United States, pursuant to Title 21, United States Code, Section 853, any and all property constituting or derived from any proceeds the Defendant obtained directly or indirectly as a result of the offense charged in Count One of the Indictment, as well as any and all property used or intended to be used to facilitate the commission of the offense alleged in Count One of the Indictment;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$61,980 in United States currency, representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained, for which the Defendant is jointly and severally liable with co-defendant Fausto Espinosa Almonte (the "Co-defendant") to the extent a forfeiture money judgment is entered against the Co-defendant in this case; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence, with the exception of the Seized Property.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorneys Mitzi S. Steiner and Michael R. Herman, of counsel, and the Defendant and his counsel, David Touger, Esq., that:

1. As a result of the offense charged in Count One of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$61,980 in United States currency (the “Money Judgment”), representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained, for which the Defendant is jointly and severally liable with the Co-defendant, to the extent a forfeiture money judgment is entered against the Co-defendant in this case, shall be entered against the Defendant.

2. The Seized Property shall be applied towards the Defendant’s Money Judgment.

3. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant FRANKLYN ESPINOSA ALMONTE, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

4. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney’s Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew’s Plaza, New York, New York 10007 and shall indicate the Defendant’s name and case number.

5. The United States Marshals Service is authorized to deposit the payments on the Money Judgment into the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

6. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

7. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.


8. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

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9. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: 
Mitzi S. Steiner
Michael R. Herman
Assistant United States Attorneys
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2284/2221

11/9/23
DATE

FRANKLYN ESPINOSA ALMONTE


By: 
FRANKLYN ESPINOSA ALMONTE

11/9/23
DATE

By: 
DAVID TONGER, ESQ.
Attorney for Defendant
70 Lafayette Street
New York, NY 10013

11/9/23
DATE

SO ORDERED:


HONORABLE LEWIS J. LIMAN
UNITED STATES DISTRICT JUDGE

11/9/2023
DATE